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VIA FACSIMILE & U.S. MAIL

NOTICE OF CHANGE TO INDEPENDENT REVIEW LAW

DATE: May 20, 2002

TO: TennCare HMO & BHO Independent Review Contacts
TennCare Independent Reviewers

FROM: Sandra Keifert, Esq., Compliance Officer

RE: 2002 Amendment to the TennCare Prompt Pay Act Independent Review Process,
T.C.A. § 56-32-226(b)

The TennCare independent review process for TennCare Managed Care Organizations¹ will change effective July 1, 2002. *See* Public Chapter 597 (copy attached). Changes in the law will not affect any requests for independent review filed prior to July 1, 2002.

Requests Filed On Or After July 1, 2002- Highlights:

◆ **Independent Review Filing Deadline**

Providers must file requests for independent review with the Department of Commerce & Insurance (TDCI) within three hundred sixty-five (365) calendar days after the MCO first denies the claim or recoups the claims payment.
T.C.A. § 56-32-226(b)(2)(C).

◆ **Reconsideration Is Required**

Prior to submitting a request for independent review, a provider must send the MCO a written request for reconsideration.
T.C.A. § 56-32-226(b)(2)(A).

The reconsideration request must identify the claim(s), the reason(s) for the dispute and must include any documentation supporting the provider or requested by the MCO.

The MCO must respond to the provider's reconsideration request within thirty (30) calendar days after receipt of the request. The response may be a letter acknowledging the receipt of the request with an estimated time frame in which

¹ "MCO" includes TennCare HMOs and BHOs.

the MCO will complete its investigation and provide a complete response to the provider. If the MCO determines that it needs longer than thirty (30) calendar days to completely respond to the provider, the MCO's reconsideration decision shall be issued within sixty (60) calendars days after receipt of the request, unless a longer time to completely respond is agreed upon in writing by the provider and the MCO.

If the MCO continues to partially or totally deny the claim in writing, or the MCO does not respond to the reconsideration request within the time frames set out above, then the provider may file a request for independent review with the Commissioner of TDCI. (Request for Independent Review form attached. Form also located at www.state.tn.us/commerce/tncardiv.htm, double click "Provider Complaints," and then double click either "Response to Provider Complaint Correspondence" or "Response to Provider Complaint Calls.").

◆ **Request For Independent Review Must Attach Copy Of Written Request For Reconsideration**

The provider must include a copy of the written request for reconsideration with the request for independent review.

T.C.A. § 56-32-226(b)(2)(B).

◆ **Information Requested by Commissioner**

The provider shall submit any information the Commissioner requests.

T.C.A. § 56-32-226(b)(2)(B).

◆ **Aggregation of Claims**

Claims involving the same MCO may be aggregated, when the specific reason for non-payment of the claims involves a common substantive question of fact or law. The mere fact that a claim is not paid does not create a common substantive question of fact or law.

T.C.A. § 56-32-226(b)(3)(A).

◆ **Independent Review of Capitated Provider Payments**

An MCO's failure to pay capitated provider payments is subject to independent review.

T.C.A. 56-32-226(b)(1).

◆ **Subcontractor Requirements**

All MCO subcontractors (processing TennCare claims and/or providing services to TennCare enrollees) must follow the claims processing and resolution procedures required by the TennCare Prompt Pay Act.

T.C.A. § 56-32-226(b)(7) & (8)

◆ **Payment of Subcontractor Independent Review Fee**

If a provider requests independent review of a claim denied by a subcontractor, the MCO contracted with that subcontractor must initially pay the independent

reviewer's fee. If the reviewer upholds the subcontractor's denial, the provider must reimburse the MCO the reviewer's fee. If the provider wins, the MCO contracted with the subcontractor must pay the provider within twenty (20) calendar days of the reviewer's decision.

T.C.A. § 56-32-226(7) & (8).

◆ **Litigation, Arbitration & Non-TennCare Claims**

Claims payment disputes involved in litigation, arbitration, or not associated with a TennCare member are not eligible for independent review.

T.C.A. § 56-32-226(b)(2)(D).

◆ **Non-Par Providers Must Submit Independent Review Fee**

If a provider does not have a written contract with the MCO that denied the claim on the date the review request is filed with the Commissioner, then the provider must send the Commissioner payment to cover the independent reviewer's fees (currently \$450.00/claim). If the provider wins, the Commissioner will refund the fee to the provider. If the MCO wins, the Commissioner will reimburse the MCO who initially paid the fee.

T.C.A. § 56-32-226(b)(2)(B).

◆ **Assignment of Disputed Claims To Independent Reviewers**

The Commissioner shall use his or her best efforts to refer an equal proportion of the total disputed claims to each independent reviewer.

T.C.A. § 56-32-226(b)(3)(A).

◆ **Information Requests To Providers & MCOs**

The independent reviewer shall request information from the provider and MCO within fourteen (14) calendar days of receipt of the request for independent review.

T.C.A. § 56-32-226(b)(3)(A).

◆ **Time For Response To Information Request**

The provider and MCO must submit information to the reviewer within thirty (30) calendar days, unless the provider or MCO requests the reviewer for additional time for an aggregated claims request. The reviewer may grant the provider or MCO an additional thirty (30) calendar days for aggregated requests.

T.C.A. § 56-32-226(b)(3)(A).

◆ **Par Provider Failure To Pay Independent Review Fee**

If a provider has a contract with the MCO that denied the claim, loses the review, and does not refund the MCO the reviewer's fee, then the TennCare Division of TDCI may prohibit that provider from future participation in the independent review process.

T.C.A. § 56-32-226(b)(3)(G).

◆ **Independent Review Decision Deadline**

The reviewer shall render a decision within sixty (60) calendar days of the receipt of the request for independent review, unless the reviewer requests guidance on a medical issue or requests and receives an extension of time from the Commissioner.

T.C.A. § 56-32-226(b)(3)(A) & (B).

◆ **Copy of Independent Review Decision**

The reviewer shall send the provider, MCO, and the TennCare Division of TDCI a copy of the decision.

T.C.A. § 56-32-226(b)(3)(C).

◆ **All Days Are Calendar Days**

All days are specified as calendar days.

The following are independent review provisions that have not been amended, but should be noted:

◆ **Eligible Claims**

Denied In Writing

Only claims partially or totally denied in written form are eligible for independent review.

T.C.A. § 56-32-226(b)(2)(A).

Denied For The First Time On Or After 10/01/99

Only claims filed for the first time on or after October 1, 1999, are eligible for independent review.

T.C.A. § 56-32-226(b)(3)(I).

Recouped Claims

Recouped claims are eligible for independent review.

T.C.A. § 56-32-226(b)(2)(A).

◆ **Process**

Process means the MCO must send the provider a written remittance advice or other appropriate written notice evidencing either the claim has been paid or informing the provider that a claim has been either partially or totally denied and specify all known reasons for denial. If a claim is partially or totally denied on the basis that the provider did not submit any required information or documentation with the claim, then the remittance advice or other appropriate written notice must specifically identify all such information and documentation.

T.C.A. § 56-32-226(b)(1)(B).

◆ **Alternatives To Independent Review**

In lieu of requesting independent review, a provider may pursue any appropriate legal or contractual remedy available.

T.C.A. § 56-32-226(b)(3)(E).

◆ **Penalties For Non-Compliance**

Any MCO found by the Commissioner to be in violation of the TennCare Prompt Pay Act shall be subject to revocation or suspension of its certificate of authority under T.C.A. § 56-32-216 or, in the alternative, the imposition of the penalties and other remedies set forth at T.C.A. § 56-32-220.

T.C.A. § 56-32-226(b)(9). *See also* T.C.A. § 71-5-2314.

If you have any questions regarding these new provisions, please contact me.

Attachments (2)

cc: TennCare Oversight Committee
TennCare Claims Processing Panel
Matthew Moore, TennCare Bureau
Stephanie Anderson, TennCare Bureau
Bettie Woodson, TennCare Bureau
Yarnell Batey, Tennessee Medical Association
Bateena Black, Tennessee Pharmacists Association
Dick Blackburn, Tennessee Association of Mental Health Organizations
Ann Carr, Tennessee Public & Teaching Hospitals
Harold Green, Tennessee Association of HMOs
Adrienne Knestrick, Hospital Alliance of Tennessee
Gayla Sasser, Tennessee Association of Home Care
TDCI TennCare Division Staff
Robert E. Moore, Jr., Deputy General Counsel, TDCI Legal
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Richard Sandstrom, Special Deputy Receiver, Xantus Healthplan of Tenn., Inc.
Peggy McCurry, Director of TennCare, Preferred Health Partnership of Tenn., Inc.
Mark Austin, Vice President, Volunteer State Health Plan, Inc.
Michael Bailey, President & COO, Victory Health Plans, Inc.
Warren Carmichael, President, Better Health Plans
Jay Davis, President & CEO, Universal Care of Tennessee
Charles Klusener, Chief Manager, Premier Behavioral Systems of Tennessee & President Tennessee Behavioral Health, Inc.